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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,420	03/07/2002	Manuel Nedbal	NAIIP451/01.285.01	7937
28875 7590 03/21/2007 Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			EXAMINER LIN, KELVIN Y	
			ART UNIT	PAPER NUMBER
			2142	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/21/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/092,420

Applicant(s)

NEDBAL ET AL.

Examiner

Kelvin Lin

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 9, 14-21, 26, 31-38, 43 and 48-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 14-21, 26, 31-38, 43 and 48-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/6/06, 12/13/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Reopening of Prosecution After Appeal Brief or Reply Brief

In view of the appeal brief filed on 11/22/06, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title

2. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. This claim is directed to software per se, which does not fall into the categories of "process", "machine", "manufacture" and "composition of matter". The claim states in its preamble that it is directed to a computer program product. However, "the agent process code" in the claim 1 just a piece of code that is operable, and intended to be executed on computer but not being embodied at the computer readable storage medium. Therefore, it is directed to the software.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4, 9, 14-21, 26, 31-38, 43, and 48-54 are rejected under 35 U.S.C 103(a) as being unpatentable over Girardot et al., (USPAT No. 7089567) in view of Kouznetsov et al., (US Patent No. 6931546).
2. Regarding claim 1, Girardot teaches a computer program product for controlling a target computer to perform an operation in response to data received from an initiating computer, said computer program product comprising:
 - agent process code operable to execute on said target computer to

provide an agent process to : receive at an agent process executing on said target computer autonomously generated operation specifying data sent from said initiating computer to said target computer (Girardot, col.19, l.45-50, col.22, l.30-32, the process XML-RPC code in the server performs the receiving request);

- read from said operation specifying data an identifier of a target process for performing said operation (Girardot, col.22, l.33-35, parser reads the and parses the request send from the client and to find the method correspond to the request); and
- if said target process is available to said target computer to pass at least a portion of said operation specifying data from said agent process to said target process (Girardot, col.20, l.26-29); and
- target process code operable to provide one or more target processes for performing operations in response to operation specifying data, said one or more target processes being provided at said target computer independently of said agent process (Girardot, fig. 5, in which the target process includes elements 516, 514, 512);
- wherein said operation performed includes configuration said target computer to execute a computer program (Girardot, col.19, l.16-24, the server will execute the configured attributed to find the method); Girardot does not teach one of following configurations. However,

Kouznetsov teaches:

- wherein said target process is operable to map configuration data specified within said operation specifying data to a configuration data store of said target computer; wherein said configuration data store is one of : a Window Registry entry, an INI file, a DAPI store, and a database entry, (Kouznetsov, col.9, l.59-65, col.12, l.9-20, in which the initialization file embedded in the file corresponds to map the configuration specified within (embedded) said operation using .ini files);

It would have been obvious to one ordinary skilled in the art at the time of invention by incorporating Kouznetsov's system configuration file update , which initializes and performs code updating involving the operating system with Girardot's persistent connection to over HTTP to configure the the specific port. (Girardot, col.21, l.40-45); because both are using the communication message from browser (GUI) to request initialization on a server.

The motivation would be that the combination of Kouznetsov and Girardot's structure by implementing Kouznetsov's system initialization to update the configuration with the authorization for installation under the privileged mode (Kouznetsov , col.4, l. 45-50) for remote system. With Girardot's communication connection for specific port it will increase the performance of the remote procedure call.

- wherein said identifier of a target process includes at least one of:
 - data specifying a computer file operable to trigger said target process; data specifying a communication channel operable to trigger said target process; and data specifying an operating system command operable to trigger said target process. (Girardot, col.14, l.45-57, the triple identifier can direct the server to find the corresponding method and handler)
- 3. Regarding claim 2, Girardot further discloses a computer program product as claimed in claim 1, wherein said operation specifying data is passed from said initiating computer to said target computer as XML data (Girardot, fig.5,).
- 4. Regarding claim 3, Girardot further discloses a computer program product as claimed in claim 2, wherein said operation specifying data represents a target process as a complex data type within said XML data (Girardot, col.21, l.49-54).
- 5. Regarding claim 4, Girardot further discloses a computer program product as claimed in claim 3, wherein parameter data used by a target process is represented by data within said complex data type of said target process (Girardot, col. 14, l.48-54).
- 6. Regarding claim 9, Girardot further discloses a computer program product as claimed in claim 1, wherein said operation specifying data includes parameter data used by said target process in said operation (Girardot, col. 21 l.45-50).
- 7. Regarding claim 14, Girardot further discloses a computer program product as

- claimed in claim 12, wherein said result data is passed from said target computer to said initiating computer as XML data (Girardot, fig.5)
8. Regarding claim 15, Girardot further discloses a computer program product as claimed in claim 1, wherein said operation includes returning result data from said target computer to said initiating computer independence upon whether or not said target process is available to said target computer (Girardot, col.23, l.22-25).
 9. Regarding claim 16, Girardot further discloses a computer program product as claimed in claim 1, wherein an operation that may be performed by said target computer includes installing a new target process (Girardot, col.21, l.27-31, the operation invokes whatever in the system, including the new process as long as the process in the system).
 10. Regarding claim 17, Girardot further discloses a computer program product as claimed in claim 1, wherein said operation specifying data is validated by said target computer by comparing with a template defining valid data (Girardot, col.22, l.39-42).
 11. Regarding claims 18-21, 26, 31-34 have similar limitations as claims 1-4, 9-12, 14-17. Therefore, claims 18-21, 26-29, 31-34 are rejected for the same reasons set forth in the rejection of claims 1-4, 9-12, 14-17.
 12. Regarding claims 35-38, 43, 48-51 have similar limitations as claims 1-4, 9, 14-17. Therefore, claims 35-38, 43, 48-51 are rejected for the same reasons set forth in the rejection of claims 1-4, 9, 14-17.
 13. Regarding claim 52, Girardot further discloses a computer program product

as claim 1, further comprising validating a said operation specifying data received at said agent process against schema data, where said schema data is sent to said agent process from said initiating computer at the same time as said operation specifying data (Girardot, col. 21 l.55-65).

14. Regarding claim 53, Girardot further discloses a computer program product as claim 1, further comprising validating a said operation specifying data received at said agent process against schema data, where said schema data is present in said agent process when said operation specifying data is sent (Girardot, col. 21 l.55-65).
15. Regarding claim 54, Girardot further discloses a computer program product as claim 1, further comprising parsing said operation specifying data after validating said operation specifying data to extract at least one identifier for mapping said at least one identifier to an available target process (Girardot, col. 21 l.55-65).

Conclusion

The prior art made of record and not relied upon is considered pertinent to application's disclosure.

- Merrick , et al., (Patent No. 7028312).
- Zimmermann et al., (PGPUB. 2002/0107999)
- Malrnskog (Patent No. 7127503)

- Avvari (Patent No. 7114159)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin Lin whose telephone number is 571-272-3898. The examiner can normally be reached on Flexible 4/9/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3/15/07
KYL



ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER